

STATEMENT BY
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UNITED STATES MISSION TO THE UNITED NATIONS
ON THE
UNITED NATIONS OIL-FOR-FOOD PROGRAM
BEFORE THE
COMMITTEE ON GOVERNMENT REFORM,
SUBCOMMITTEE ON NATIONAL SECURITY, EMERGING THREATS
AND INTERNATIONAL RELATIONS
UNITED STATES HOUSE OF REPRESENTATIVES

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Mr. Chairman, distinguished members of the Committee, I welcome the opportunity to appear before you again to discuss what is commonly known as the United Nations Oil-for-Food (OFF) Program.

Mr. Chairman, recent allegations of corruption and mismanagement under the Oil-for-Food Program have been targeted not only at the Saddam regime, but also at companies and individuals doing business under the program, and at UN personnel and contractors. We believe that every effort should be made to investigate these allegations seriously and to determine the facts in each case.

As you are aware, there are currently several Congressional investigations looking into the question of Oil-for-Food. The Independent Inquiry Committee headed by Paul Volcker, and the Board of Supreme Audit (BSA) in Baghdad are also conducting their own investigations. As these inquiries go forward, you have my assurance, and that of my staff, to cooperate fully with you and your colleagues on the other Committees, and provide all possible additional information and assistance. I welcome the opportunity

today to answer your questions relating to these investigations on how the program was created and operated.

At the outset, Mr. Chairman, I want to reiterate several points I made here previously in April. First, I want to emphasize that the establishment of the Oil-for-Food Program was the result of difficult and arduous negotiations among 15 Security Council members, a number of whom advocated the complete lifting of sanctions against Iraq. The Oil-for-Food Program was in no way perfect – but it was, at the time, the best achievable compromise to address the ongoing humanitarian crisis in Iraq in the mid-1990's, while maintaining effective restrictions on Saddam's ability to re-arm. Sanctions have always been an imperfect tool, but, given the U.S. national goal of restricting Saddam's ability to obtain new materials of war, sanctions represented an important tool in our efforts.

Mr. Chairman, given this general context, I would now like to outline some details on how the Program worked – how it was created, by whom, and how it operated and was monitored.

A comprehensive sanctions regime was established under UNSC Resolution 661 in August 1990 after the Saddam Hussein regime invaded Kuwait. The Council's unanimity on the issue of Iraq eroded as key Council delegations became increasingly concerned over the negative impact of sanctions on the Iraqi population. The lack of food supplies and the increase in mortality rates were world-wide news.

The concept of a humanitarian program to alleviate the suffering of the people of Iraq was initially considered in 1991 with UNSC Resolutions 706 and 712, but the Saddam regime rejected these proposals. The Council eventually adopted UNSC Resolution 986 in 1995 which provided the legal basis for what became known as the Oil-for-Food Program. While Council members were the drafters and negotiators of this text, the Memorandum of Understanding (MOU) signed between the UN and the former Government of Iraq was negotiated between Iraqi Government officials and representatives of the Secretary-General, in particular his Legal Counsel, on behalf of and at the request of the Security Council.

Under provisions of Resolution 986 and the MOU, the Iraqi Government, as a sovereign entity, retained the responsibility for contracting with buyers and

sellers of Iraq's choosing, and the responsibility to distribute humanitarian items to the Iraqi population. This retention of Iraqi authority was insisted upon by Saddam and was supported by a number of Security Council members as well as by other UN member states. The exception to this was for the three Northern Governorates of Iraq, where the UN agencies, at the request of the Council, served as the de-facto administrative body that contracted for non-bulk goods and distributed the monthly food ration.

The Sanctions Committee that was established under Resolution 661 in 1990 – also known as the 661 Committee – monitored member state implementation of the comprehensive sanctions on Iraq – and also was authorized to monitor the implementation of the Oil-for-Food Program after its inception.

The 661 Committee – like all sanctions Committees – operated as a subsidiary body of the Security Council and was comprised of representatives from the same fifteen nations as the Council. The Committee was chaired by the Ambassador of one of the rotating ten elected members of the Council. The Committee during its lifespan was chaired by the Ambassadors of Finland, Austria, New Zealand, Portugal, Netherlands,

Norway, and Germany. Decision-making in the Committee was accomplished on a consensus basis – all decisions taken by the Committee required the agreement of all its members. This procedure is used in all subsidiary sanctions committees of the Council.

In providing oversight and monitoring of the sanctions, the Committee, and each of its members, including the U.S., was responsible for reviewing humanitarian contracts, oil spare parts contracts, and oil pricing submitted on a regular basis by Iraq to the UN for approval. The Committee was also responsible for addressing issues related to non-compliance and sanctions busting. In my previous testimony and statement for the record, I have provided an explanation of what we knew about issues related to non-compliance, what we did to address them, and the degree of success we had in addressing these issues within the confines of the 661 Committee.

When the U.S. became aware of issues related to non-compliance or manipulation of the Oil-for-Food Program by the Saddam regime, we raised these concerns in the Committee, often in concert with our UK counterparts. At our request, the Committee held lengthy discussion and debate over, for example, allegations of oil pricing manipulation, kickbacks on contracts,

illegal smuggling, and the misuse of ferry services. To provide the 661 Committee with additional insight on issues related to non-compliance we also organized outside briefings by the Commander of the Multilateral Interception Force (MIF), and other U.S. agencies. Our success in addressing issues of non-compliance was directly related to the willingness of other members of the Committee to take action.

Given the consensus rule for decision-making in the Committee, the ability of the U.S. and UK to take measures to counter or address non-compliance was often inhibited by other members' desire to ease sanctions on Iraq. As reflected in many of the 661 Committee records that have been shared with your Committee, the atmosphere within the Committee, particularly as the program evolved by the late 90s, was often contentious and polemic, given the fundamental political disagreement between member states over the Security Council's imposition and continuance of comprehensive sanctions, a debate exacerbated by the self-serving national economic objectives of certain key member states.

Mr. Chairman, you have recently been to Baghdad and know that the voluminous Oil-for-Food documents are now being safeguarded for use by

the Board of Supreme Audit (BSA) in their investigation. The American Embassy in Baghdad is currently working on a Memorandum of Understanding between the U.S. and the Government of Iraq regarding access to these documents. We will keep this Committee updated on the status of these negotiations.

Mr. Chairman, as you and your fellow distinguished Committee colleagues continue your review of the Oil-for-Food Program, key issues in your assessment likely will be whether the Program achieved its overall objectives, and whether the Program could have been better designed at its inception to preclude what some have suggested were fundamental flaws in its design.

In retrospect, had the program been constructed differently, perhaps by eliminating Iraqi contracting authority and the resulting large degree of autonomy afforded to Saddam to pick suppliers and buyers, then the allegations currently facing the program might not exist. One can postulate the elimination of this authority and the establishment of another entity to enter into contracts on behalf of the former government of Iraq, and this

entity might have had tighter oversight of financial flows, thus inhibiting Saddam Hussein's ability to cheat the system through illegal transactions.

The problem is, of course, that these specific decisions – to allow the government of Iraq to continue to exercise authority – to let Saddam Hussein continue to determine who he could sell oil to and purchase goods from – were all done in the context of the larger political debate on Iraq. It was reluctantly accepted to ensure that a significant sanctions program would remain in place -thus achieving a U.S. goal

Mr. Chairman, here I want to reiterate a point that I made earlier on the issue of sovereignty. While we opposed the authoritarian leadership of the former Saddam Hussein regime, Iraq was, and is, a sovereign nation. Sovereign nations are generally free to determine to whom they will sell their national products, and from whom they purchase supplies. Members of the Security Council, as well as other member states, insisted on upholding this aspect of Iraq's sovereign authority.

These were the arrangements that prevailed under the Oil-for-Food Program given this reality. Could alternate arrangement have been devised, such as

authorizing the United Nations or some other entity to function as the contracting party representing the people of Iraq in oil sales, and humanitarian goods procurement? The answer, given that there was not the political will in the Security Council to use its authorities to take charge of Iraq's oil sales and humanitarian goods procurement, depended on the Iraqi regime's agreeing. And it did not.

The Security Council's original scheme, outlined in Resolutions 706 (1991) and 712 (1991), for a program that would utilize the revenue derived from the sale of Iraqi oil to finance the purchase of humanitarian supplies for use by the Iraqi people, was repeatedly rejected by the Saddam government. Even after the Council adopted Resolution 986 on April 14, 1995, the resolution that established the OFF Program, it took more than thirteen months of protracted negotiations with the UN before Saddam Hussein finally agreed to proceed with the Program – a considerable delay given the ongoing and urgent needs of the Iraqi people.

Mr. Chairman, any plan that would have denied the authority of the Iraqi Government to select its own purchasers of Iraqi oil and suppliers of humanitarian products would have been rejected by a number of other key

Security Council states. You and your Committee colleagues will recall that most, if not all, of the resolutions concerning Iraq adopted by the Security Council reaffirmed Iraq's sovereignty and territorial integrity. It would not have been possible, politically, to win support from various UN member states for any arrangement that denied Iraq its fundamental authorities as a sovereign nation. And that would have endangered the durability of the sanctions regime that helped deny Saddam access to war materials.

Finally, Mr. Chairman, I want to underscore the obligations of all UN member states to implement and enforce the comprehensive multilateral sanctions imposed by the Security Council under Resolution 661 (1990). It was not possible for the sanctions to be effective, nor to prevent Saddam from evading the sanctions through the smuggling of oil, and the purchase of prohibited goods, without the full cooperation of other states. I appreciate that this Committee is carefully reviewing this matter, and I would encourage you to consider the actions of other states in the context of the Oil-for-Food Program. The United Nations, first and foremost, is a collective body comprised of its 191 members. A fundamental principle inherent in the UN Charter is that member states will accept and carry out decisions of the Security Council in accordance with

the Charter. In this regard, the effectiveness of the Oil-for-Food Program, as well as the larger comprehensive sanctions regime against Iraq, largely depended on the ability and willingness of UN member states to implement and enforce the sanctions. In the 661 Committee, the subsidiary body of the Security Council tasked with monitoring sanctions compliance, sanctions violations could be addressed only if there was a collective will, and consensus, to do so. As you review the effectiveness of the Oil-for-Food Program, and the sanctions against Iraq in general, I encourage you to keep in mind that a decision to take effective action to address non-compliance issues required consensus in the 661 Committee, a consensus that repeatedly proved elusive. And in reviewing the effectiveness of the UN Secretariat, it may be relevant to recall that the staff and contractors are hired to implement the decisions of the member states. They operate within the mandates given to them.

In this regard, Resolution 986 (1995) and the May 1996 Memorandum of Understanding between the United Nations and the former Government of Iraq defined the mandate governing the work of the independent inspection agents, appointed by the Secretary-General, who authenticated the arrival in Iraq of goods ordered under approved Oil-for-Food contracts. Lloyds

Registry of the United Kingdom initially performed this function on behalf of the UN. When the Lloyds contract expired, the Swiss firm Cotecna was hired by the UN to continue this authentication function.

As defined in Resolution 986 (1995) and the subsequent MOU with the former Iraqi Government, the independent inspection agents, Lloyds Registry and Cotecna, were tasked with inspecting only those shipments of humanitarian supplies ordered under the Oil-for-Food Program. Lloyds Registry and Cotecna agents were not authorized by the Security Council to serve as Iraq's border guards or customs officials. They lacked authority to prevent the entry into Iraq of non-Oil-for-Food goods. That function and responsibility belonged solely to Iraqi border and customs officers, given Iraq's sovereignty, and to every UN member state, given the sanctions in place. The United Nations, and its agents, Lloyds Registry, Cotecna, and Saybolt, were not responsible for enforcing sanctions compliance.

In May 2001, the U.S. and UK delegations circulated a draft resolution to other Security Council members that would have tightened border monitoring by neighboring states as part of a "smart sanctions" approach to Iraq. Certain Council members, as well as representatives of Iraq's

neighbors, strongly opposed the U.S.-UK text, and the draft resolution was never adopted.

Resolution 986 (1995) and the May 1996 Memorandum of Understanding also called for monitoring by outside agents of Iraq's oil exports. The Dutch firm, Saybolt, performed this function under the Oil-for-Food Program. Saybolt representatives oversaw oil loadings at the Mina al-Bakr loading platform and monitored the authorized outbound flow of oil from Iraq to Turkey (Ceyhan). Saybolt monitors were not authorized by the Security Council to search out and prevent illegal oil shipments by the former Iraqi regime. This was the primary responsibility of each member state. The Multinational Maritime Interception Force (MIF), operating in the Persian Gulf, also was tasked with preventing Iraq's illegal oil smuggling.

Mr. Chairman, now that the Oil-for-Food Program has ended, questions concerning the efficacy of the Program have arisen in light of the appearance of documents belonging to the former Iraqi regime. These documents were never publicly shared during Saddam Hussein's rule with the Security Council or the 661 Committee.

A fair question to pose is what might have happened had the Oil-for-Food Program never been established. While any response is purely conjecture, it is fair to assume that the humanitarian crisis besetting the people of Iraq in the mid-1990's would have only worsened over time, given the impact of the comprehensive sanctions on Iraq, and Saddam's failure to provide for the needs of his civilian population.

A deteriorating humanitarian situation among the Iraqi people would have increased calls among more and more nations for a relaxation and/or removal of the comprehensive restrictions on Iraq, thereby undermining ongoing U.S. and UK efforts to limit Saddam's ability to re-arm. While the U.S. and UK may have succeeded in formally retaining sanctions against Iraq, fewer and fewer nations would have abided by them in practice given the perceived harmful impact such measures were thought to be having on Iraqi civilians. This would have given Saddam even greater access to prohibited items with which to pose a renewed threat to Iraq's neighbors, and to the region.

Did the Oil-for-Food Program help to relieve the humanitarian crisis in Iraq and the suffering of the Iraq people? Despite what might in the end be

identified as inherent flaws, the Oil-for-Food Program did enjoy measurable success in meeting the day-to-day needs of Iraqi civilians. Could the Program have been designed along lines more in keeping with U.S. Government competitive bidding and procurement rules? Only if other Council members and the former Iraqi government itself had supported such a proposal. In the end, the Oil-for-Food Program reflected three merged concepts: a collective international desire to assist and improve the lives of Iraq's civilian population; a desire by the U.S. and others to prevent Saddam from acquiring materials of war and from posing a renewed regional and international threat; and, efforts by commercial enterprises and a number of states to pursue their own national economic and financial interests despite the interests of the international community to contain the threat posed by Saddam's regime.

Mr. Chairman, thank you for this opportunity to appear again before this Committee. I now stand ready to answer whatever questions you and your fellow Committee members may wish to pose.